

Reply to Office Action of March 17, 2004

REMARKS

Applicant thanks the Examiner for the very thorough consideration given the present application.

Claims 1-11 are now present in this application. Claims 1, 10 and 11 are independent.

Amendments have been made to the specification, claim 11 has been added, and claims 5 and 10 have been amended. Reconsideration of this application, as amended, is respectfully requested.

I. Priority Under 35 U.S.C. §119

Applicant thanks the Examiner for acknowledging Applicant's claim for foreign priority under 35 U.S.C. §119, and receipt of the certified priority documents.

II. Restriction Requirement

The Examiner has made the Restriction Requirement final, and has withdrawn claim 10 from further consideration.

Applicant continues to traverse the restriction requirement. The Restriction requirement incorrectly states that claim 10 is a method claim directed to the method of making a turbofan.

Applicant respectfully submits that no method steps are recited in claim 10 and that claim 10 is directed to a mold for a turbofan with specific features. Because of this

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mischaracterization of claim 10 as a method claim, the restriction requirement is improper and must be withdrawn.

Applicant also wishes to note that claim 11 has been added. Claim 11 is a linking claim, which recites the allowable combination of a turbofan and mold for making the turbofan. Because of this allowable linking claim, it is not proper to restrict the turbofan claims 1-9 and turbofan mold claim 10.

Accordingly, Applicant respectfully requests that the improper restriction requirement be withdrawn and that claims 1-11 be examined on their merits.

III. Claim Objection

The Examiner has suggested that in claim 5, line 1, that "a" be changed to --the--. Applicant has amended claim 5 as suggested by the Examiner. Accordingly, this claim objection has been obviated.

IV. Specification Objection

The Examiner has objected to the specification because of several informalities. In order to overcome this objection, Applicant has amended the specification in order to correct the deficiencies pointed out by the Examiner and another deficiency found by Applicant. Reconsideration and withdrawal of this objection are respectfully requested.

V. Rejection Under 35 U.S.C. §102

Claims 1-3 stand rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Patent 6,679,682 to Lee. This rejection is respectfully traversed.

A complete discussion of the Examiner's rejection is set forth in the Office Action, and is not being repeated here.

Lee is not an effective reference under 35 USC §102(e). The Office Action acknowledges Applicant's claim for benefit of two prior Korean Applications filed before the effective filing date of Lee. Both Korean priority Applications were filed prior to September 5, 2001, which is the effective filing date of Lee under 35 USC §102(e). Although the Office Action has not required Applicant to furnish English language translations of those Korean priority Applications, in order to remove Lee as a reference under 35 USC §102(e), Applicant is also filing herewith certified English translations of both Korean Applications.

Accordingly, this rejection of claims 1-3 is improper and should be withdrawn.

VI. Rejections under 35 U.S.C. §103

The Office Action rejects claims 4, 5 and 9 under 35 USC §103(a) as obvious over Lee in view of either UK Patent 942,648 or Japanese Patent 54-72501. This rejection is respectfully

traversed.

Claim 4 recites that the shroud comprise a body and have a surface, which is coupled to the blade, of a portion at which the shroud body and the first extension are connected to each other is curved. This feature is not disclosed or suggested by Lee.

Moreover, Applicant hereby states that, at the time that this invention was made, U.S. Patent 6,679,682 and this application were commonly assigned to LG Electronics, Inc.

This statement effectively removes Lee as a reference applied under 35 USC §102(e)/103.

In the alternative, even if Lee had not been removed because of its common assignment, or because of its effective filing date, the Office Action fails to make out a *prima facie* case of obviousness of the claimed invention over the applied references.

The Office Action fails to discuss the differences between the applied references. For example, while Lee is directed to a turbofan for use in an air conditioner to move air, UK '648 is directed to a centrifugal liquid pump and JP '501 is directed to a centrifugal mixed flow pump for use with water. Neither one of the secondary references deals with drawing air into an air conditioner.

Under these circumstances, the Office Action fails to demonstrate that one of ordinary skill in the art would be motivated to modify Lee in view of either liquid impeller pump.

The alleged motivation to combine either of these secondary references with Lee is "for the purposes of smoothly guiding flow to the impeller blades at their outlets."

However, the Office Action provides no evidence that Lee does not smoothly guide airflow to its blades, or that there is a need to do so in Lee. In this regard, the Office Action states that both secondary references have curved concave shaped shrouds "for the purpose of smoothly guiding flow to the impeller blades at their outlets."

Applicant respectfully submits that the Office Action fails to provide any objective evidence of this speculative conclusion, evidence that must be supplied to meet the Office's burden of providing procedural and substantive due process to Applicant under the Administrative Procedures Act. See, in this regard, In re Zurko, 119 S.Ct. 1816, 50 USPQ2d 1930 (1999), and In re Gartside, 53 USPQ2d 1769 (Fed. Cir. 2000). Also, see In re Lee, 277 F.3d 1338, 1343, 61 USPQ2d 1430, 1433 (Fed. Cir. 2002), which holds that a factual inquiry whether to modify a reference must be based on objective evidence of record, not merely conclusionary statements of the Examiner.

Moreover, it is well settled that broad general conclusions about references, such to "smoothly guiding flow to impeller blades," standing alone, do not satisfy the detailed particular teachings that are needed to properly motivate a skilled worker

to modify a reference - see, in this regard, In re Dembiczak, 175 F.3d 994 at 1000, 50 USPQ2d 1614 at 1617 (Fed. Cir. 1999).

Accordingly, this rejection of claims 4, 5 and 9 is improper and should be withdrawn.

VII. Allowable Subject Matter

The Examiner states that claims 6-8 would be allowable if rewritten in independent form.

Applicant thanks the Examiner for the early indication of allowable subject matter in this application. However, Claim 6 has not been amended by being re-written in independent form because of Applicant's belief that claim 1, from which claim 6 depends, is allowable, for reasons stated above. Claims 7 and 8 depend from claim 6. Accordingly, claims 6-8 are allowable.

VIII. New Claim 11

Claim 11 has been added for the Examiner's consideration. Applicant submits that claim 11 recites features which are not disclosed or made obvious by the applied prior art references.

IX. Additional Cited References

Since the remaining references cited by the Examiner have not been utilized to reject the claims, but have merely been cited to show the state of the art, no comment need be made with respect thereto.

X. Conclusion

All of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicant therefore respectfully requests that the Examiner reconsider all presently outstanding rejections and that they be withdrawn. It is believed that a full and complete response has been made to the outstanding Office Action, and as such, the present application is in condition for allowance.

If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone Robert J. Webster, Registration No. 46,472 at (703) 205-8000, in the Washington, D.C. area.

Prompt and favorable consideration of this Amendment is respectfully requested.

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If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§1.16 or 1.17; particularly, extension of time fees.


Respectfully submitted,

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Attachments: English Translations of Korean priority
Application Nos. 51080/2001 and 51429/2001, with
Translator Statements.